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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AUG 13 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Revision of the Commission's Rules) CC Docket No. 94-102
To Ensure Compatibility with)
Enhanced 9-1-1 Emergency Calling Systems)
)
To: The Commission

**Comments of XYPOINT Corporation in Response to State of California 9-1-1
Program Manager Request for Declaratory Ruling**

XYPOINT Corporation ("XYPOINT") hereby submits its comments in response to the *Request for Emergency Declaratory Ruling* filed by the State of California 9-1-1 Program Manager ("California") in the above-captioned proceeding. In support of its comments XYPOINT states as follows:

In view of the fact that the effective date of the Phase I rules has passed and there are only a handful of counties in the country in which wireless E9-1-1 service is being provided,¹ California's request is timely. It also is noteworthy that the request for Commission action has come from Leah Senitte, who in addition to serving as the manager of the state 9-1-1 program also serves as the president of the National Emergency Number Association (NENA), one of the premier public safety trade groups with enormous influence over the deployment of Phase I and Phase II services nationwide. Quick resolution and/or clarification of the important policy issues raised will hopefully

¹ To the best of XYPOINT's knowledge, Phase I wireless E9-1-1 service is only being provided in 4 or 5 counties at the present time including: Allen and Steuben counties, Indiana with Centennial Cellular; Los Angeles with AirTouch and Pacific Bell Mobile Services; Portland, Oregon with AT&T Wireless Services; Adams County, Colorado with US West PCS.

serve to accomplish the Commission's goal of promoting the deployment of a ubiquitous, nationwide wireless E9-1-1 service. Due to the obvious failure of the marketplace to extensively deploy wireless E9-1-1 services, it is crucial for the Commission to address the issues raised by California and other issues to be discussed below, which have an equally important impact on the provision of E9-1-1 service.

Do carriers have an obligation to deploy wireless E9-1-1 service (Phase I) in California despite the fact that State statutes do not provide immunity from liability for E9-1-1 service provided?

Though XYPOINT takes no position on the issue of whether there is a current legal obligation of wireless carriers to deploy Phase I E9-1-1 service if they do not have immunity under existing California statutes, it believes that the Commission must act to provide all wireless carriers with immunity for the provision of E9-1-1 service. The lack of immunity is an impediment to the deployment of ubiquitous wireless E9-1-1 services on a nationwide basis. Based on its experience in California and hundreds of other markets, XYPOINT is aware that, as in the State of California, many jurisdictions have met the three express conditions which trigger wireless carriers' obligations to comply with the Phase I rules (a request by the appropriate PSAP for service; the ability of the PSAP to receive and utilize the data; and having a cost recovery system in place). Despite this fact, the failure of carriers to be assured that they will be given immunity for their provision of wireless E9-1-1 service has directly and tangibly impeded the implementation of Phase I wireless E9-1-1 service.

In the *Report and Order and Further Notice of Proposed Rulemaking* adopting the wireless E9-1-1 rules, the Commission specifically dealt with the issue of immunity. It stated that it was "...unable to find that general exemption from liability is essential to

achieving the goals of the Communications Act.” The Commission’s rationale was based, in part, on its belief that “if the E9-1-1 wireless carriers wish to protect themselves from liability for negligence, they may attempt to bond customers to contractual language, require public safety organizations to hold them harmless for liability, ...or if the liability is caused by the rulings of the Commission, argue that the actions complained of were caused by acts of public authority.”² The Commission’s view that the lack of immunity would not be an impediment to the deployment of wireless E9-1-1 services turned out to be incorrect. As evidenced by the California request, immunity is a key issue that must be addressed now, not only in the context of California but on a nationwide basis.

Attached hereto is a XYPOINT-prepared survey of immunity statutes in each of the 50 states. It demonstrates that immunity is now available in 30 states representing approximately 127 million U.S. citizens, based upon 1990 census data. Immunity is not available in 19 states representing approximately 121 million U.S. citizens and carriers are expressly liable in one state, Delaware. The survey leads to the conclusion that without some strong action being taken by the Commission to provide carriers with immunity, the Commission’s goals for deployment of wireless E9-1-1 service on a nationwide basis will be thwarted. As a result, XYPOINT urges the Commission to act on this issue as quickly as possible by (1) providing wireless carriers with immunity or (2) allowing wireless carriers to file informational tariffs with the Commission in which carriers can establish immunity via contract.

² *Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 94-102 , FCC 96-264, 11 FCC Rcd 18676 (July 26, 1996), paras. 99-100.

If carriers are obligated to deliver Phase I service without immunity from liability (either statutory or contractual), is the State required under the cost recovery rules to reimburse carriers for the cost of insurance policies covering their provision of wireless E9-1-1 service?

As noted above, XYPOINT asserts that wireless carriers should be provided with immunity. To the extent that carriers are required to provide wireless E9-1-1 service without immunity from liability, states in general should be required to reimburse carriers for the cost of insurance policies covering the provision of wireless E9-1-1 service as they are a legitimate part of providing wireless E9-1-1 service and thus a valid component of cost recovery. The Commission should acknowledge, however, that this requirement would effectively ensure that implementation of Phase I and Phase II does not occur due to prohibitive cost levels in California, New York, Ohio, Michigan and other states without immunity.

Regarding selective routing, what is meant in the Commission's E9-1-1 First Report and Order by the reference to "appropriate PSAP"?

With regard to selective routing and the issue of what is meant by the "appropriate PSAP," XYPOINT asserts that the appropriate state or local agency with jurisdiction over PSAPs should be the entity that makes the decision on which PSAP is the appropriate one to receive the initial wireless E9-1-1 call. This position is consistent with the view expressed by the Commission in the *Memorandum Opinion and Order* in this proceeding where it stated:

To the extent that the terms "appropriate" and "designated" PSAPs, as used in the E9-1-1 First Report and Order, may be unclear, we wish to clarify that the responsible local or state entity has the authority and responsibility to designate the PSAPs that are appropriate to receive wireless 9-1-1 calls.³

³ *Memorandum Opinion and Order*, FCC 97-402, 10 CR 1090 (December 23, 1997) ("Memorandum Opinion and Order").

To the extent that a state law, such as that which exists in California, would be inconsistent with the state or local agency with jurisdiction over PSAPs, XYPOINT submits the Commission has authority to preempt state law and allow carriers to route calls to local agencies if requested by PSAPs to do so. With regard to preemption on wireless E9-1-1 the Commission stated:

[I]t is well established that this Commission may preempt state regulation when (1) the matter to be regulated has inseverable interstate and intrastate aspects; and (2) preemption is necessary to protect a valid Federal regulatory objective. A primary objective in this proceeding is to fulfill out statutory mandate of 'promoting safety of life and property' through wireless communications by facilitating the deployment of E9-1-1 capabilities to the maximum reasonable extent throughout the Nation. In that regard, we agree with those commenters, including state and local public safety organizations, who argue that Federal preemption of interstate E9-1-1 operations, including: (1) ubiquitous E9-1-1 operational compatibility; (2) the avoidance of state-by-state technical and operational requirements that would burden equipment manufacturers and carriers; and (3) averting of confusion by end users, especially roamers, who are attempting to contact emergency service providers.

Against this background, we conclude that state actions that are incompatible with the policies and rules adopted in this Order are subject to preemption.⁴

In the state of California, a Task Force composed of subject matter experts representing industry and public safety agencies, recommended that sending calls to the California Highway Patrol (CHP) *as well as* local PSAPs, rather than to the CHP exclusively, would be a more technically efficient manner of implementing wireless E9-1-1 in California:

The public benefits when their 9-1-1 call is initially routed to the appropriate emergency center. Currently, all cellular 9-1-1 calls are initially routed to the CHP; about 25 percent of these calls properly belong to a

⁴ *Report and Order and Further Notice of Proposed Rulemaking*, paras. 104-105.

different public safety agency which the CHP must then transfer to the agency. The delays inherent in this transfer process impeded the public's ability to receive help quickly.⁵

Notwithstanding this recommendation from the exhaustive Task Force report, California statute has not been updated to allow 'selective routing' due to the political and legal opposition of carriers who are justifiably concerned about the lack of immunity in California. This is an unambiguous indication to the Commission that the lack of immunity is directly hindering the implementation of wireless E9-1-1 service.

Other Deployment Issues

The issues raised by California are important because they deal with factors which are severely inhibiting the deployment of wireless E9-1-1 services on a nationwide basis. Nonetheless, there are additional issues which are having a more significant adverse impact on the ability of carriers to provide Phase I wireless E9-1-1 services.

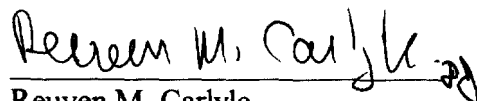
As expressed above, there are only a handful of Phase I wireless E9-1-1 systems in operation today. This is because the Commission has not adequately addressed some very significant E9-1-1 policy issues that deal with the inability of wireless carriers to get the appropriate data elements from their switches to the appropriate PSAP. For example, currently many LECs—with the exception of Pacific Bell and US West Communications—have yet to make ALI steering available in a timely, non discriminatory fashion to wireless carriers so they can provide E9-1-1 services in the most efficient manner within their territories. The Commission should send a clear, emphatic signal to the nation's LECs that they are subject to substantial sanctions for their failure to comply with their Section 251 unbundling and interconnection obligations and that formal

⁵ Final Draft Report, California Wireless 9-1-1 Task Force, p. 30.

complaints from CMRS providers against LECs on this issue will be considered a high priority for Commission action. Until that occurs, the Commission's overarching goal of having Phase I and Phase II wireless E9-1-1 systems deployed on a nationwide basis will be unsuccessful.

Respectfully submitted,

XYPOINT Corporation

A handwritten signature in dark ink, appearing to read "Reuven M. Carlyle", is written over a horizontal line.

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[REDACTED]

				<i>Telephone</i>	<i>Carrier</i>
Alabama - E Code of Ala. §§ 11-98-1 <i>et seq.</i>	Local surcharge: NTE ⁴ 5% maximum tariff rate; NTE \$2.00 if population < 25,000.	H.B. 312 (Enacted): \$0.70 surcharge	Wireline: Board of Commissioners for each emergency telephone district upon public majority vote--Ala. Code 11-98-5 Wireless: CMRS Board--Ala. Code § 11-98-7	Y (H.B. 312)	Y (H.B. 312)
Alaska - E Alaska Stat. § 29.35.131	Local surcharge: NTE \$.50/access line if population > 100,000 and NTE \$.75/access line if population < 100,000.	Not specified in statute.	Municipality by resolution or ordinance--Alaska Stat. § 29.35.131	Y	N

¹ "E" indicates state has mandated enhanced emergency number service.

² Charges are per month unless otherwise specified. Status of surcharges for wireless are based on all laws in effect in 1996; therefore, current legislation may change status.

³ Sufficient authority means that a public agency has clear authority to reimburse or pay wireless carriers for all cost associated with the implementation of E9-1-1 under the Federal Communication Commission's Report and Order (R&O), CC Docket No. #94-102 (July 26, 1996). The "limited authority" states generally authorize funding for public safety agencies but do not expressly authorize the reimbursement of R&O expenses to wireless carriers and, therefore, may interfere with wireless E9-1-1 deployment. However, emergency communications representatives from California and Oregon have indicated that their respective state statutes do authorize reimbursement to wireless carriers.

⁴ "NTE" = Not To Exceed

NOTES

				<i>Adopted</i>	<i>Carrier</i>
Arizona ARS § 42-1471-1472; ARS § 12-713	State tax: NTE 1.50% of provider's gross sales or income derived from providing exchange access services.	State tax of \$0.10 (pre 6/99) and \$0.20 (post 6/99) per wireless service	Director of the Department of Administration--ARS § 42-5253	Y	Limited
Arkansas - E Ark. Stat. Ann. §§ 12-10-302 <i>et seq.</i>	Local surcharge: NTE 5% or NTE 12% if population < 15,000 of tariff rate.	State: \$0.50 per subscriber	Wireline: Governing authority to set after public majority vote within political subdivision--Ark. Stat. Ann. § 12-10-318(a)(1) Wireless: CMRS Board--ARS § 12-10-318(b)(1)	Y	Y
California - E Cal Rev & Tax Code §§ 41001 <i>et seq.</i> ; Cal Gov Code §§ 53100 <i>et seq.</i>	State surcharge on intrastate calls: Minimum .50% Maximum .75%	State: Assessment same as wireline. A.B. 909 (Amended): amended version removed immunity A.B. 2596 (Stalled in Committee): provides immunity	State-wide statutory rate--Cal. Rev. & Tax Code § 41020, 41030; State Board of Equalization	N	Y
Colorado CRS §§ 29-11-101 <i>et seq.</i>	Local surcharge: NTE \$.70/service user.	Local: \$.70	Governing body by ordinance or resolution--CRS. § 29-11-102	Y	Y
Connecticut - E Conn. Gen. Stat. §§ 28-24 <i>et seq.</i>	State E-911 Telecom Fund NTE \$.50/access line.	State E-911 Telecom Fund NTE \$.50/wireless access line.	Public Utility Control to determine each year--Conn. Gen. Stat. § 16-256g & § 28-30a	N	Limited
Delaware - E 16 Del. C. §§ 10001-10005; 16 Del. C. §§ 10101 <i>et seq.</i>	Local surcharge: NTE \$.50/access line.	Not specified in statute.	County by ordinance--16 Del. C. § 10103	Applies to Wireless but Creates Liability	N

APPENDIX I

Florida - E Fla. Stat. § 365.171	Local surcharge: NTE \$.50/access line.	Not specified in statute.	Board of County Commissioners by majority vote or referendum-- Fla. Stat. § 365.171(13)(a)	Y (S.B. 2164)	N
Georgia - E O.C.G.A. §§ 46-5-135 <i>et seq.</i>	Local surcharge: NTE \$1.50/access line.	S.B. 572 (Enacted): Adds local wireless surcharge up to \$1.00 for Phase I with 30% for cost recovery; Additional surcharge equal to landline (\$1.50) for Phase II with 30 cents for cost recovery;	Local governing authority by resolution after majority vote or public hearing--O.C.G.A. §§ 46-5-133, 46-5-134	Y	Y (S.B. 572)
Hawaii - E HRS § 269-16-95; HRS § 321-224	Local surcharge: amount not specified.	S.B. 3142 (Session End Without Action): allows service provider to levy own surcharge	Public Utility Commission to approve pursuant to tariff filings-- HRS § 269-16.95 (c)	N	N
Idaho Idaho Code §§ 31-4802 <i>et seq.</i>	Local surcharge: NTE \$1.00/access line.	S.B. 1514 (Died): Adds wireless surcharge of \$1.00 but no express cost recovery	County Board of Commissioners by resolution or city ordinance, and 60% voter approval--Idaho Code § 31-4803	Y	N
Illinois 50 ILCS §§ 750/0.01 <i>et seq.</i>	Local surcharge: NTE \$1.25/access line if population > 500,000.	For the purposes of the Act, "telecommunication carrier" does not include a cellular or other mobile communication carrier.	Municipality or county by ordinance or resolution with public majority approval--50 ILCS 750/15.3	N	N

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				<i>Adequate</i>	<i>Carrier</i>
Indiana - E Ind. Code Ann. §§ 36-8-16-1 <i>et seq.</i>	Local surcharge: NTE 3% of average monthly access line charge in a county that has a consolidated city or at least one 2nd-class city. NTE 10%/access line in a county that does not have a consolidated city or a 2nd-class city.	S.B. 150 (Enacted): Surcharge NTE \$1.00 with Initial surcharge of \$0.65 with \$0.25 for cost recovery	Wireline: County fiscal body or legislative body of county municipality by ordinance--Ind. Code Ann. § 36-8-16-5, 36-8-16-6 Wireless: Wireless Enhanced 911 Advisory Board assesses and adjusts fee--§ 36-8-16.5	Y (S.B. 150)	Y (S.B. 150)
Iowa - E Iowa Code § 34A.1	Local surcharge: NTE \$1.00. Local alternative surcharge: NTE \$2.50/access line for 24 months, if approved by voters.	S.B. 530 (Enacted): Surcharge not to exceed \$0.50 with express cost recovery	E9-1-1 Joint Service Board determines after majority approval of public--Iowa Code § 34A.6, 34A.6A	Y (S.B. 530)	Y (S.B. 530)
Kansas KSA §§ 12-5301 <i>et seq.</i>	Local surcharge: NTE \$.75/access line.	Wireless service users shall be exempt from the emergency telephone tax.	Board of County Commissioners or governing body by ordinance or resolution with public majority approval where petitioned--KSA § 12-5302	Y	Y (No funding source)
Kentucky KRS §§ 65.750 <i>et seq.</i>	Local surcharge: amount not specified in statute.	H.B. 673 (Enacted): Surcharge of \$0.70 with express cost recovery	Wireline: City, county, or urban-county government--KRS § 65.760 Wireless: CMRS Board--new section of KRS § 65	Y (H.B. 673)	Y (H.B. 673)

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				<i>Adequate</i>	<i>Carrier</i>
Louisiana - E La. R.S. §§ 33:9104 <i>et seq.</i> ; La. R.S. §§ 45:791, <i>et seq.</i>	Local surcharge: NTE \$1.00/wireless access line for residential and NTE \$2.00/access line for business. Local surcharge: NTE 5%/access line if served by more than one supplier. 9-1-1 Implemented by Parish	Local surcharge: NTE \$1.00/wireless access line for residential and NTE \$2.00/wireless access line for business. Local surcharge: NTE 5%/wireless access line if served by more than one supplier.	Governing authority of each communications district by public majority vote--La. R.S. § 33: 9106B, 33: 9131B	N	Yes (Allen, Beauregard, Calcasieu, Ouachita parishes only)
Maine - E 25 M.R.S. §§ 2921 <i>et seq.</i>	Statewide surcharge: \$.20 per access line.	Statewide surcharge: \$0.20 (pre 8/98) and \$0.32 (post 8/98) per access line.	State-wide statutory rate--25 M.R.S. § 2927(1-A)	Y	Limited
Maryland - E Md. Ann. Code art. 41 §§ 18-101 <i>et seq.</i>	State surcharge: \$.10/access line. Local surcharge: NTE \$.50/access line.	State surcharge: \$0.10/wireless access line. Local surcharge in addition: \$0.50/wireless access line.	State-wide statutory rate--Md. Ann. Code art. 41, § 18-105(b); Emergency Services Communications Bureau	Y	Limited
Massachusetts - E Mass. Ann. Laws ch. 6A § 18A	State surcharge on directory assistance.	Not specified in statute.	Secretary of Public Safety to assess after consultation with Department of Public Utilities--Mass. Ann. Laws. ch 6A § 18F, ch 159, § 19A	N	N
Michigan MSA §§ 22.1467(101)	Local surcharge: NTE 4% highest monthly flat rate for one-party access line; county may assess up to 16% by ballot.	H.B. 5653 (Stalled in Committee): \$0.65 surcharge with 50% for cost recovery S.B. 1010 (Passed Senate): adds immunity	County Board of Commissioners (4%) or majority vote of county (16%)--MSA § 22.1467(401)	Pending (S.B. 1010)	Pending (H.B. 5653)

NOT FOR RELEASE

				<i>Adequate</i>	<i>Carrier</i>
Minnesota - E Minn. Stat. §§ 403.01 <i>et seq.</i>	State surcharge: \$.08-\$.30/access line for basic 9-1-1 \$.08-\$.30/access line for E9-1-1	State surcharge: \$.08-\$.30/wireless access line for basic 9-1-1 funding. No surcharge on wireless service for E9-1-1 pursuant to Minn. Stat. § 403.113 Subd. 1(a).	Commissioner of Administration with approval of Commissioner of Finance for basic 9-1-1 and in consultation with counties and system users for E9-1-1--Minn. Stat. §§ 403.11, 13.	Y	Y
Mississippi - E Miss. Code Ann. §§ 19-5-301 <i>et seq.</i>	Local surcharges: \$1.00/residential access line; \$2.00/commercial access line or if current charge is 5% of the tariff rate, the new collection shall be \$.80/residential access and \$1.60/commercial access line.	Local surcharges: "Cellular to be treated the same as land line." S.B. 2821 (Enacted): \$1.00 surcharge with 30% for cost recovery	County Board of Supervisors--Miss. Code Ann. § 19-5-313	Y (S.B. 2821)	Y (S.B. 2821)
Missouri R.S.Mo. §§ 190.300 <i>et seq.</i>	Local tax NTE 15% of tariff local service rate or \$.75/access line whichever is greater or counties may, if approved by voters, impose a 1% sales tax.	S.B. 743 (enacted): \$0.50 surcharge with express cost recovery	Office of Administration--§ 190.430	Y (S.B. 743)	Y (Pending Voter Approval--S.B. 743)
Montana Mont. Code Ann. §§ 10-4-101 <i>et seq.</i>	State surcharge: \$.25/access line.	State: \$0.25 per subscriber	State-wide statutory rate--Mont. Code Ann. § 10-4-201; Department of Administration	N	Limited
Nebraska - E R.R.S. Neb. §§ 86-1001 <i>et seq.</i>	Local surcharge: NTE \$.50/access line; increase by \$.50/access line if metropolitan city in county.	Not specified in statute.	Governing body (Board of County Commissioners, City Council, etc.) and by public hearing for metropolitan class areas--R.R.S. Neb. § 86-1003	N	N

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Nevada Nev. Rev. Stat. Ann. §§ 244A.7641 <i>et seq.</i>	Local surcharge: County property tax.	Not specified in statute.	Board of Metropolitan Police upon initial or subsequent public majority approval--Nev. Rev. Stat. § 244A.775	N	N
New Hampshire - E RSA §§ 106-H:1 <i>et seq.</i>	State surcharge: amount not specified in statute.	State: Surcharge not specified (\$0.42)	Bureau of Emergency Communications through PUC and budgetary process--N.H. Rev. Stat. Ann. § 106-H:9	N	Y
New Jersey - E N.J. Stat. §§ 52:17C-1 <i>et seq.</i>	State: General Fund	Not specified in statute.	No direct surcharge/ appropriations--N.J. Stat. § 52:17C-12, 13	N	N
New Mexico - E N.M. Stat. Ann. §§ 63- 9D-1 <i>et seq.</i>	State Enhanced 911 Fund. Funds collected by local exchange phone companies at \$.25 for 911 emergency surcharge plus \$.26 for network and database surcharge/access line. Local additional surcharge may be imposed.	Not specified in statute.	State-wide statutory rate--N.M. Stat. Ann. § 63-9D-5	Y	N

NY 1343 / S.B. 1242

New York - E NY CLS County §§ 300 <i>et seq.</i>	Local surcharge NTE \$.35/access line.	State: \$.70/access line surcharge collected by local service suppliers to fund special revenue for state police 911-related costs. A.B. 3203 (pending) would create a state- wide cellular telephone emergency service account and would make the surcharge payable to certain eligible providers	Local governing board --NY CLS County §§ 303, 309	N	Limited
North Carolina - E N.C. Gen. Stat. §§ 62A- 1 <i>et seq.</i>	Local surcharge: amount not specified in statute.	H.B. 1343 / S.B. 1242 (Senate Version in House Committee): \$.80 surcharge until 2000 and \$1.25 thereafter; 60% cost recovery and adds immunity	Governing authority of local government by ordinance by majority public vote or public hearing--N.C. Gen Stat. § 62A-4	Pending (H.B. 1343 / S.B. 1242)	Pending (H.B. 1343 / S.B. 1242)
North Dakota - E N.D. Cent. Code §§ 57- 40.6-01 <i>et seq.</i>	Local surcharge NTE \$1.00/access line; E9-1-1 database charges authorized but amount not specified.	Not specified in statute.	Governing authority of local government by resolution by majority public vote--N.D. Cent. Code § 57-40.6-02	N	N
Ohio ORC Ann. §§ 4931.40 <i>et seq.</i>	Local surcharge NTE \$.50/access line.	Draft Bill: \$.65 surcharge	Public Utility Commission in tariff schedules--ORC Ann. § 4931.47, 52	N	Pending

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State	Local Access Charge	Emergency Access Charge	Emergency Access Charge	Adequate Protection	Carrier Consent
Oklahoma 63 Okl. St. §§ 2801 <i>et seq.</i>	Local surcharge NTE 15% of tariff rate/ access line.	H.B. 2710 (Died): Surcharge half of landline without cost recovery S.B. 827 (Died): \$0.50 surcharge with cost recovery S.B. 1279 (Died): \$0.50 surcharge with cost recovery	Governing body by ordinance or resolution with majority public approval--63 Okl. St. § 2814	N	N
Oregon - E ORS §§ 401.710 <i>et seq.</i>	State Emergency Communications Account Fund tax of \$.75/access line.	State Emergency Communications Account Fund tax of \$.75/wireless access line.	Statewide statutory rate--1981 Or. Laws § 533; Office of Emergency Management	Y	Y
Pennsylvania - 35 P.S. §§ 7011 <i>et seq.</i>	Local fee NTE \$1.00-\$1.50/access line depending on county classification.	H.B. 911 (Enacted) Local government state agency and wireless immunity; cost recovery for mobile communications equipment	Emergency Management Agency subject to public meeting--35 PS §§ 7012, 7016	Y (H.B. 911)	Limited
Rhode Island R.I. Gen. Laws §§ 39- 21-1 <i>et seq.</i>	State surcharge: \$.47/exchange line.	State: \$0.47 per access device	State-wide statutory rate--R.I. Gen. Laws § 39.21.1-14; E9-1-1 Authority	Y	Y

NOT REPRODUCIBLE

				<i>Advanate</i>	<i>Carrier</i>
South Carolina - E S.C. Code Ann. §§ 23-47-10 <i>et seq.</i>	Local surcharge: \$.75- \$1.50/subscriber for start-up costs; \$.50-\$1.00/subscriber for on-going costs.	S.B. 778 (Enacted): Surcharge set at average monthly of landline rate (\$0.58) with 57% to cost recovery	Wireline: Local government through ordinance--S.C. Code Ann. § 23-47-40 Wireless: CMRS Emergency Telephone Services Board--§ 23- 47-65	Y (S.B. 778)	Y (S.B. 778)
South Dakota - E S.D. Codified Laws §§ 34-45-1 <i>et seq.</i>	Local surcharge NTE \$.75/access line State Coordination Fund: \$.01/access line for counties not collecting surcharge	Cellular contained in definition of exchange access line. S.B. 136 (enacted): creates task force	Governing body of public corporation by ordinance--S.D. Codified Laws §§ 34-45-2, 4	Y	Limited
Tennessee - E Tenn. Code Ann. §§ 7- 86-101 <i>et seq.</i>	Local emergency communications districts collect levy NTE \$.65/residential user and \$2.00/business user.	H.B. 2455 (Died): Wireless surcharge not to exceed residential wireline H.B. 3190 (Enacted): Wireless surcharge not to exceed business rate with cost recovery from surplus revenues	Board of Directors of emergency district with legislative hearing and, with increases, approved by majority public vote--Tenn. Code Ann. § 7-86-108	Y (H.B. 3190) (Liability not greater than wireline)	Y (H.B. 3190)
Texas Tex. Health & Safety Code §§ 771-001 <i>et</i> <i>seq.</i> & §§ 772-001 <i>et</i> <i>seq.</i>	Regional Advisory commission fee NTE \$.50/access line for regional planning district and 0.013% equalization surcharge per intrastate long-distance customer.	State: \$0.50 per subscriber	Advisory Commission on State Emergency Communications--Tex. Health & Safety Code § 771-0711	Y	Y
Utah Utah Code Ann. §§ 69- 2-1 <i>et seq.</i>	Local surcharge: NTE \$.50/access line.	Local: \$0.53/wireless access line.	Governing authority for public agency providing 9-1-1--Utah Code Ann. § 69-2-5	Y	Limited

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State	Local Authority	Wireless Funding Authority	Wireless Funding Authority	Adequacy of Funding	Carrier Case
Vermont - E 30 V.S.A. §§ 7051 <i>et seq.</i>	State enhanced 911 fund.	State enhanced 911 fund from legislative appropriations	Statewide statute via legislative appropriations--30 V.S.A. § 7054; Vermont E9-1-1 Board	Y	Limited
Virginia - E Va. Code Ann. § 58.1-3813	Local tax.	H.B. 1331 (Enacted): \$0.75 with cost recovery	Wireline: County, city, or town authority--Va. Code Ann. § 58.1-3813(A) Wireless: Wireless E9-1-1 Service Board--§ 56-484.8, 484.10	Y	Y (H.B. 1331)
Washington - E RCW 38.52.500 <i>et seq.</i> ; RCW 82.14B.020 <i>et seq.</i>	Local tax NTE \$.50/access line. State fee \$.20/access line	Local: County tax NTE \$.25/wireless access line. Study Authorized (H.B. 1126)	County authority and statewide statute--RCW § 82.14B.030	Y	Limited
West Virginia - E W. Va. Code § 7-1-3cc; W. Va. Code §§ 24-6-1 <i>et seq.</i>	Local fee (amount not specified).	State: \$0.75 per subscriber	Wireline: County Commission--W. Va. Code § 7-1-3cc Wireless: State Service Commission	Y	Y
Wisconsin - E Wis. Stat. § 146.70	Local levy of \$.25-\$1.00/access line depending on size of population.	Not specified in statute.	County authority by ordinance--Wis. Stat. § 146.70(3), (8)	N	N
Wyoming Wyo. Stat. §§ 16-9-102 <i>et seq.</i>	Local charge NTE \$.50/access line.	Not specified in statute.	Governing body through ordinance or resolution--Wyo. Stat. § 16-9-103	N	N

XYPOINT

STATE 9-1-1 IMMUNITY STATUTES

			APPLIES
Alabama	Ala. Code § 11-98-9	<p>All technical proprietary information submitted to the board or to the independent, third-party auditor as provided by Section 11-98-7(b)(5) shall be retained by the board and the auditor in confidence and shall be subject to review only by the Alabama Examiners of Public Accounts. Notwithstanding any other provision of the law, no technical proprietary information submitted shall be subject to subpoena or otherwise released to any person other than to the submitting CMRS provider, the board, and the independent, third-party auditor without the express permission of the administrator and the submitting CMRS provider. General information collected by the independent, third-party auditor shall only be released or published in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS provider. Notwithstanding any other provision of the law, no district, political subdivisions, CMRS Provider, local exchange company, or their employees, directors, officers, or agents shall be liable for any damages in a civil action or subject to criminal prosecution resulting from death, injury, or loss to persons or property incurred by any person in connection with establishing, developing, implementing, maintaining, operating, and otherwise providing wireless enhanced 911 service in compliance with the requirements established by FCC Order 94-102 and any rules and regulations which are or may be adopted by the FCC pursuant to the Order, except in the case of willful or wanton misconduct.</p>	Y (H.B. 312)

Alaska	Alaska Stat. Sec. 29.35.133. Immunity	<p>(a) The establishment, funding, use, operation, or maintenance of enhanced 911 systems and all activities associated with those actions are specifically found to be within the ambit of AS 09.50.250(1) and AS 09.65.070(d)(6). Except for intentional acts of misconduct or gross negligence, a service supplier, local exchange telephone company, or mobile telephone company, including a cellular service company, and their employees and agents, are also immune from tort liability that might otherwise be incurred in the course of installing, training, maintaining, or providing enhanced 911 systems or transmitting or receiving calls on the system.</p> <p>(b) An individual, telephone company, or employee of a telephone company who operates or maintains an emergency 911 service is not liable for civil damages in a tort action as a result of an act, omission, failure of service, or incorrect information done or given in good faith.</p> <p>(c) In this section, "service supplier" means a person that provides or offers to provide telecommunications equipment or services necessary for the establishment, maintenance, or operation of an enhanced 911 system.</p>	Y
Arizona	A.R.S. § 12-173	<p>A. A person, private entity, public entity or any of their employees who are involved in developing, operating, implementing or participating in a 911 emergency telephone system or a similar emergency dispatch system is not liable for civil damages that result from an act or omission in connection with developing, operating, implementing or participating in a 911 emergency telephone system or a similar emergency system unless the person or entity acted knowingly or had reason to know the facts that would lead a reasonable person to realize that the person's or entity's act or failure to act not only created an unreasonable risk of bodily injury to others, but also involved a high probability that substantial harm would result.</p> <p>B. This section applies to causes of action that accrue on or after the effective date of this section.</p>	Y
Arkansas	Ark. Stat. Ann. § 12-10-318(b)(4)	(4) Notwithstanding any other provision of the law, in no event shall any CMRS provider, its officers, employees, assigns or agents, be liable for civil damages or criminal liability in connection with the development, design, installation, operation, maintenance, performance or provision of 911 service. Nor shall any CMRS provider, its officers, employees, assigns or agents be liable for civil damages or criminal liability in connection with the release of subscriber information to any governmental entity as required under the provisions of this subchapter.	Y
California		Not specified in statute	N

Colorado	Colo. Rev. Stat. § 29-11-105	No basic emergency service provider or service supplier and no employee or agent thereof shall be liable to any person or entity for infringement or invasion of the right of privacy of any person caused or claimed to have been caused, directly or indirectly, by any act or omission in connection with the installation, operation, maintenance, removal, presence, condition, occasion, or use of emergency service features, automatic number identification (ANI), or automatic location identification (ALI) service and the equipment associated therewith, including without limitation the identification of the telephone number, address, or name associated with the telephone used by the party or parties accessing 9-1-1 service, ANI service, or ALI service, and that arise out of the negligence or other wrongful act of the provider or supplier; the customer; the governing body or any of its users, agencies, or municipalities; or the employee or agent of any of said persons and entities. In addition, no provider or supplier or any employee or agent thereof shall be liable for any damages in a civil action for injuries, death, or loss to person or property incurred as a result of any act or omission of such provider, supplier, employee, or agent in connection with developing, adopting, implementing, maintaining, enhancing, or operating an emergency telephone service unless such damage or injury was intentionally caused by or resulted from gross negligence of the provider, supplier, employee, or agent.	Y
Connecticut	Conn. Gen. Stat. § 28-28a	A telephone company shall forward to any public safety answering point or other answering point equipped for enhanced 9-1-1 service the telephone number and street address of any telephone used to place a 9-1-1 call. Subscriber information provided in accordance with this section shall be used only for the purpose of responding to emergency calls or for the investigation of false or intentionally misleading reports of incidents requiring emergency service. No telephone company or agents of a telephone company shall be liable to any person who uses the enhanced 9-1-1 service established under sections 28-25, 28-25a, 28-25b, 28-26, 28-27, 28-27a, and 28-28, this section and sections 28-28b, 28-29, 28-29a and 28-29b for release of the information specified in this section or for any failure of equipment or procedure in connection with enhanced 9-1-1 service.	N

Delaware	16 Del. C. § 10005 Liability of corporations providing 911 Enhanced Emergency Reporting Systems	<p>(a) The liability of a corporation providing a 911-Enhanced Emergency Reporting System ("the System") pursuant to this chapter for any injury, damage or loss, including, but not limited to: bodily injury, property damage, loss of business or other consequential damages, resulting from an interruption, fault, failure or other deficiency in the System, related telephone services or the provision of the System or related telephone services by the corporation, whether or not due to the negligence or other misconduct of the corporation, shall not exceed \$1,000,000 for any and all claims arising out of each occurrence of an interruption, fault, failure or other deficiency in the System, related telephone services or the provision of the System or related telephone services by the corporation.</p> <p>(b) (1) In any case in which a telephone or other corporation providing a 911-Enhanced Emergency Reporting System ("the System") shall be found to be liable for any injury, damage or loss, including, but not limited to: bodily injury, property damage, loss of business or other consequential damages, resulting from an interruption, fault, failure or other deficiency in the System, related telephone services or the provision of the System or related telephone services by the corporation, the judgment entered against the corporation shall be limited to an amount equal to that percentage of the total damages awarded to the claimant which is attributable to the negligence or other misconduct of the corporation.</p> <p>(2) The corporation shall not be liable to pay any portion of that percentage of the total damages awarded to the claimant which is attributable to the negligence or other misconduct of any other person, including the claimant, whether or not that person is a party to the action.</p> <p>(3) In all cases, a determination shall be made as to the percentages of the total damages awarded to the claimant which are attributable to the negligence or other misconduct of the corporation and the negligence or other misconduct of other persons, including the claimant, whether or not parties to the action.</p>	Applies to wireless but creates liability
Florida	Fla. Stat. § 365.171(14) Indemnification and Limitation of Liability.	All local governments are authorized to undertake to indemnify the telephone company against liability in accordance with the telephone company's lawfully filed tariffs. Regardless of any indemnification agreement, a telephone company or Commercial Mobile Radio Service Provider as defined in § 364.02 shall not be liable for damages resulting from or in connection with "911" service or identification of the telephone number, address, or name associated with any person accessing "911" service, unless the telephone company or Commercial Radio Service Provider acted with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property in providing such services.	Y (S.B. 2164)

Georgia	O.C.G.A. § 46-5-131	<p>§ 46-5-131. Exemptions from liability in operation of "911" system</p> <p>(a) Whether participating in a state-wide emergency "911" system or an emergency "911" system serving one or more local governments, neither the state nor any local government of the state nor any emergency "911" system provider, its employees, directors, officers, and agents, except in cases of wanton and willful misconduct or bad faith, shall be liable for death or injury to the person or for damage to property as a result of either developing, adopting, establishing, participating in, implementing, maintaining, or carrying out duties involved in operating the "911" emergency telephone system or in the identification of the telephone number, address, or name associated with any person accessing an emergency "911" system.</p> <p>(b) No local government of the State of Georgia shall be required to release, indemnify, defend, or hold harmless any emergency "911" system provider from any loss, claim, demand, suit, or other action or any liability whatsoever which arises out of subsection (a) of this Code section, unless the local government agrees or has agreed to assume such obligations.</p>	Y
Hawaii		Not specified in statute.	N
Idaho	Idaho Code § 31-4812 Immunity and Conditions of Liability in Providing Emergency Communications Service	<p>In order to further the purposes of this chapter, and to encourage the development of consolidated emergency communications systems, the legislature finds that telephone companies providing consolidated emergency communications systems and related services shall not be subject to liability in conjunction with providing such services except on the terms stated below.</p> <p>(1) No telephone company or telecommunications provider shall be liable to any person for the good faith release to emergency communications system personnel of information not in the public record including, but not limited to, nonpublished or nonlisted telephone numbers.</p> <p>(2) A local exchange telephone company or other telecommunications entity providing emergency communications systems or services, and its employees and agents, shall not be liable in tort to any person for damages alleged to have been caused by the design, development, installation, maintenance or provision of consolidated emergency communications systems or services, unless such entities or persons act with malice or criminal intent, or commit reckless, willful and wanton conduct.</p> <p>(3) For the purposes of this section, "reckless, willful and wanton conduct" is defined as an intentional and knowing action, or failure to act, creating an unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result.</p>	Y

Illinois	ILCS § 750/15.1 Public body; exemption from civil liability for developing or operating emergency telephone system	No public agency, public safety agency, emergency telephone system board, or unit of local government assuming the duties of an emergency telephone system board, nor any officer, agent or employee of any public agency, public safety agency, emergency telephone system board, or unit of local government assuming the duties of an emergency telephone system board, shall be liable for any civil damages as a result of any act or omission, except willful or wanton misconduct, in connection with developing, adopting, operating or implementing any plan or system required by this Act. No person who gives emergency instructions through a system established under this Act to persons rendering services in an emergency at another location, nor any person following such instructions in rendering such services, shall be liable for any civil damages as a result of issuing or following the instructions, unless issuing or following the instructions constitutes willful or wanton misconduct. This Section may not be offered as a defense in any judicial proceeding brought by the Attorney General under Section 12 [50 ILCS 750/12] to compel compliance with this Act.	N
Indiana	Ind. Code Ann. § 36-8-16.5	Sec. 46. Notwithstanding any other law, the Board, a PSAP, political subdivision, CMRS provider, local exchange company, or an employee, director, officer, or agent of a PSAP, political subdivision, CMRS provider, or local exchange company is not liable for damages in a civil action or subject to criminal prosecution resulting from death, injury, or loss to persons or property incurred by any person in connection with establishing, developing, implementing, maintaining, operating, and providing wireless 911 service in compliance with the requirements established by the FCC order and rules adopted under the FCC order, except in the case of willful or wanton misconduct.	Y (S.B. 150)
Iowa	Iowa Code § 34A.7.6	Limitation of actions -- provider not liable on cause of action related to provision of 911 services. A claim or cause of action does not exist based upon or arising out of an act or omission in connection with a land-line or wireless provider's participation in an E911 service plan or provision of 911 or local exchange access service, unless the act or omission is determined to be willful and wanton negligence.	Y (S.B. 530)
Kansas	KSA § 12-5308 Emergency Telephone Service; Immunity from Liability.	A public agency or a wireless carrier shall not be liable for any form of damages resulting directly or indirectly from the total or partial failure of any transmission to an emergency telephone service.	Y

Kentucky	Ky. Rev. Stat. Ann. §§ 65.750, et seq.	Sec. 9. Notwithstanding any other provision of law, no CMRS provider or service supplier, nor their employees, directors, officers, or agents, except in cases of negligence, or wanton or willful misconduct, or bad faith, shall be liable for any damages in a civil action or subject to criminal prosecution resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, establishing, participating in, implementing, maintaining, or providing access to a CMRS system for the purposes of providing wireless 911 service or E911 service in compliance with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC orders: in connection with the quality of the service; in connection with ensuring that any 911 call goes through properly; or in connection with providing access to CMRS service in connection with providing wireless 911 service or E911 service.	Y (H.B. 673)
Louisiana	La. R.S. 33:9131(E)	Until such time as cellular and other wireless communication service suppliers are capable of providing and do provide automatic number identification (ANI) and automatic location identification (ALI), suppliers of such service shall not be liable for any claim, damages, costs, and expenses, including reasonable attorney fees, with respect to and as a result of any claim or action relating to delivery of or reliance by enhanced 911 or 911 on such information.	N
Maine	Me. Rev. Stat. Ann. tit. 25, § 2930(2) Limitation of Liability	Cellular or Wireless Telecommunications Service Provider. To the extent that a local exchange carrier is deemed to have limitations of liability and indemnification pursuant to the provisions of a tariff or schedule agreement in effect at the time of the transmission of the E-9-1-1 service, a cellular or wireless telecommunications provider that processes an E-9-1-1 communication has the same limitation of liability and indemnification that the local exchange carrier has for that E-9-1-1 transmission.	Y
Maryland	Md. Ann. Code Art. 41 § 18-106(b)	Nothing in this subtitle requires a 911 service carrier to provide any equipment or service other than the equivalent of that required of telephone companies under subsection (a) of this section. Furthermore, nothing in this subtitle shall be interpreted to extend any liability to a 911 carrier.	Y
Massachusetts		Not specified in statute.	N